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Chief Administrative Officer

Board of Supervisors  
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First District

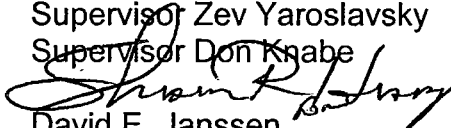
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Second District

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Fifth District

April 21, 2006

To: Mayor Michael D. Antonovich  
Supervisor Gloria Molina  
Supervisor Yvonne B. Burke  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe  
From:   
David E. Janssen  
Chief Administrative Officer

**SACRAMENTO UPDATE**

**Proposition 36 Funding**

On April 19, 2006, the Assembly Budget Subcommittee #1 on Health and Human Services took action to support Proposition 36, the Substance Abuse and Crime Prevention Act of 2000, funding at the Fiscal Year 2005-06 expenditure level of \$140 million. The Subcommittee's action increases the Governor's January proposal for Proposition 36 funding by \$23 million.

**Pursuit of Position on Legislation**

**AB 2987 (Nuñez)**, as amended on April 6, 2006, would create a statewide franchising authority for the provision of cable or video services to be administered by the Department of Corporations (DOC) which would become the sole franchising authority in California. AB 2987 would permit current franchisees to apply for State-issued franchises upon expiration of their current agreements, require municipalities to permit the installation of networks by holders of State-issued franchises and preclude enforcement of consumer protection standards by local governments.

The Department of Consumer Affairs (DCA) indicates that AB 2987 would significantly change the County's 35 television franchises in the unincorporated areas. Under the

terms of existing franchise agreements, which are monitored by DCA, the County manages public rights-of-way, collects approximately \$4 million annually through a five percent fee on gross revenues, imposes Public, Educational, and Governmental (PEG) channel requirements, and protects consumer interests. The bill does not protect the County's franchise revenues, and does not address the status of possessory interest taxes.

AB 2987 would preempt the County's authority to issue cable franchises by allowing new telephone corporation entrants, as well as current cable franchisees upon local franchise expiration, to apply and receive a State-issued franchise from the DOC. The most immediate impact may be that existing cable operators currently under extensions and/or soon-to-expire franchises would have no incentive to negotiate a renewal with the County. The County would have no authority to require State franchisees to provide free cable service to schools and County facilities after January 1, 2008. In addition, PEG channels could be reduced and PEG studios provided by operators would not be required after January 1, 2008.

With respect to consumer protection, AB 2987 would prohibit the County from enforcing local standards, and/or the Federal Communication Commission's customer service standards. In addition, there appears to be no mechanism for the County to enforce the State's customer service standards. The bill would also permit franchisees a "reasonable period of time" to provide service to all households in a service area, a requirement that may be satisfied through Direct Broadcast Satellite (DBS) or other alternative technology. It is unclear what a "reasonable period of time" is for build-out, and unclear whether the offering of DBS service in lieu of building out the system to certain areas will be considered comparable service.

Furthermore, DCA indicates that since build-out requirements are based on a "service area" designated by a potential franchisee in its application, the company will have no incentive to designate any service area other than what it chooses to build-out. There appears to be no requirement that telephone company applicants designate their entire service area as a video service area, and a cable operator applying for a State certificate upon expiration of its franchise may choose to designate a service area that does not include all of its existing franchise area.

Under AB 2987, local governments may audit fee payments annually, but audit rights are limited to a three-year period, with no automatic right to recover costs of the audit even in the case of substantial underpayments by the service provider. The County's sole remedy in the event of a dispute with a State franchise holder would be to bring a lawsuit.

According to the California State Association of Counties (CSAC), AB 2987 would virtually eliminate local government involvement over the franchising of video services, thus ensuring revenue losses to local governments. The bill also does not include

provisions to require video providers to carry and support PEG channels and does not include build out requirements that encourage investment in all communities. CSAC opposes the bill unless amended to address these concerns.

AB 2987 is opposed by the League of California Cities and the National Association of Telecommunications Officers and Advisors. The bill is supported by the California Chamber of Commerce, Verizon, and AT&T.

DCA recommends an oppose, unless amended position on AB 2987 because, in its current form, it would have a negative fiscal impact on the County, would restrict management of County public rights-of-way, and would diminish consumer protections now afforded to our residents, and we concur. DCA recommends that AB 2987 be strengthened to: 1) clarify language to avert reductions of local government franchise revenues and property tax revenues attributable to possessory interests; 2) require PEG channels; 3) affirm the authority local government to control the use of public rights-of-way; 4) provide a mechanism for local government to enforce consumer protection; and 5) address build-out requirements and standards. **Therefore, our Sacramento advocates will oppose AB 2987, unless amended.**

This position is consistent with existing Board policy to oppose proposals that would usurp local control and preempt the ability of local governments to negotiate compensation for the use of rights-of-way by telecommunication companies. Opposition is also consistent with Board policy to oppose current Federal legislation that would preempt local government authority over telecommunication services, such as the franchising and regulation of local cable television services, zoning of television, radio, and other telecommunication services. AB 2987 is scheduled to be heard by the Assembly Committee on Utilities and Commerce on April 24, 2006.

**AB 3070 (Committee on Health)**, as amended on April 17, 2006, would make technical changes to the statutes created by County-supported SB 1100 (Perata and Ducheny, Chapter 560 of Statutes of 2005) which implemented the Medi-Cal Hospital Financing Waiver.

Among the technical changes AB 3070 would make are corrections of drafting errors and omissions in SB 1100 relating to the treatment of certain public hospital Certified Public Expenditures (CPEs) used to claim waiver funds, and adjustments baseline payments to district hospitals. These changes are non-substantive and do not fundamentally change the Waiver implementation under SB 1100. Additionally, these changes were agreed to by the DSH Task Force, of which the County is a member. The Department of Health Services recommends support for AB 3070, and we concur. Consistent with general Board policy to protect the County's Medi-Cal hospital funding, **our Sacramento Advocates will support AB 3070.** AB 3070 is supported by the California Hospital Association and the California Association of Public Hospitals. There

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is no known opposition. The bill is scheduled to be heard by the Assembly Committee on Health on April 25, 2006.

We will continue to keep you advised.

DEJ:GK  
MAL:JF:DW:hg

c: All Department Heads  
Legislative Strategist  
Local 660  
Coalition of County Unions  
California Contract Cities Association  
Independent Cities Association  
League of California Cities  
City Managers Associations  
Buddy Program Participants